

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3993 of 1997

with

SPECIAL CIVIL APPLICATION NO. 3994 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?

2. To be referred to the Reporter or not?

3. Whether Their Lordships wish to see the fair copy of the judgement?

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge?

1-5 No

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ANVARBHAI GANIBHAI

Versus

STATE OF GUJARAT

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Appearance:

MR BP MUNSHI for Petitioners

NOTICE SERVED for Respondent No. 1

MR HS MUNSHAW for Respondent No. 2, 3, 4

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CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 25/06/98

ORAL JUDGEMENT

In both these Special Civil Applications the petitioners are seasonal workers engaged purely on temporary basis as superior field workers and field workers in the scheme evolved by the Central Government known as National Malaria Eradication Scheme. The said

scheme of the Central Government has been implemented by the State Government through District Panchayats. It is stated that 50% of the expenses are borne by the Central Government while 50% of the expenses are borne by the State Government. They are engaged during the rainy seasons for spray of insecticides in the area marked by the Department. They undertake the said work after proper training. The superior field workers were paid salary in the pay scale of Rs. 950-1500 with other benefits. The field workers were placed in the scale of Rs. 750-940 and they were also given similar benefits. While superior field workers are placed in Category-III, the field workers were placed in Category-IV. They are mostly engaged during the period June to September. The grievance of the petitioners is that by Resolutions dated 8.5.1997 and 23.5.1997 of the State Government benefit of the pay scale and allowances has been withdrawn and they are being given wages on daily basis i.e. Superior Field Worker Rs. 115/- per day and Field Worker Rs. 90/- per day.

2. It is contended by Mr. B.P. Munshi, learned counsel for the petitioners that the petitioners are being continuously engaged during the season every year varying from 1968 to 1984. They are qualified and experienced for the job. They have undertaken the training as per the prescribed Rule. They are qualified persons and are in expectation and anticipation of getting continuous employment. Many of them have sacrificed all the years in service of the respondents. Now it is not possible for them to go for alternative employment. The service conditions have been changed without giving them an opportunity. It is also submitted that the decision changing them to daily wagers from regular pay scale amounts to reducing them in pay scale and deprive them of opportunity of hearing.

3. The learned counsel relying on the decisions of the apex court in the case of DHARWAD DIST. P.W.D. L.D.W. ASSOCIATION VS. STATE OF KARNATAKA reported in AIR 1990 SC 883, BHAGWATI PRASAD VS. DELHI STATE MINERAL DEVELOPMENT CORPN. reported in (1990) 1 SCC 361, ARUN KUMAR ROUT VS. STATE OF BIHAR reported in 1998(1) SLR 61 and UNION OF INDIA VS. DINESH KUMAR SAXENA AND OTHERS reported in (1995) 3 SCC 401 and also a judgement of this court in the case of C.D. CHAUHAN & ORS. VS. RESERVE BANK OF INDIA & ANR. reported in 32(2) GLR 1192 submitted that considering Articles 14, 16 of the Constitution in light of the Preamble and Article 39(a), Article 47 and Article 43 of the Constitution the petitioners are entitled to a regular pay scale on the principle of equal pay for equal work.

4 Mr. M.A. Parmar, District Malaria Officer, Surendranagar has filed an affidavit stating that the National Malaria Eradication Programme is taken in the month of June to September and during this period as per the requirement seasonal workers are engaged known as superior field workers or field workers. They are engaged during monsoon season without following due process of recruitment. Usually the same persons are engaged if they are available and willing. It is not mandatory for them to undertake seasonal work as they are engaged only for a number of period in the year but the State government considered to engage them on the daily rate wages instead of placing them in a regular salary.

5. I have heard learned counsel for the parties. It clearly appears that out of 12 months, the petitioners are engaged only for a period of four months. Thus, it is evident that their livelihood is not depended upon the seasonal work. They are mostly engaged in other vocation or in business or field or service. All the cases referred to by the learned counsel pertain to employment in different government establishments where they have been working continuously for a number of years. The question considered in all cases is that equal pay for equal work. At the first instance the petitioners are not working continuously for the entire year. Thus, it cannot be said that they have been working continuously for years and secondly they have not laid any foundation for equal pay or equal work.

In view of the aforesaid there is no merit in these Special Civil Applications and they are accordingly rejected. Notice discharged in each of the petitions.

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